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Reagan Transforms the Federal Judiciary

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William E. Hellerstein, a senior attorney at New York's Legal Aid Society, has an impressive list of people who think he should be a federal judge.

The Harvard Law School graduate has the blessing of both New York senators, Republican Alfonse M. D'Amato and Democrat Daniel Patrick Moynihan. Twenty-four former federal prosecutors have endorsed Hellerstein as "an outstandingly able lawyer." He was recommended by a screening panel headed by Leonard Garment, a lawyer for Attorney General Edwin Meese III.

But Hellerstein apparently will never sit on the federal bench, for critics have persuaded the Reagan administration that he is too liberal. Administration sources say the proposed nomination is dead.

For months now, some of the country's most powerful people and interest groups—senators, governors, administration officials, conservative activists, lawyers, bar associations—have been busily involved in a sometimes combative yet largely unpublicized process that may turn out to be the most important single governmental exercise of the year.

It is the filling of 114 federal district and appeals court judgeships, an extraordinary total that comes to a seventh of the seats on the entire federal bench.

Eighty-five of the seats were created by Congress last year as part of a bankruptcy courts bill. Another 29 vacancies have been created by attrition. Together they give President Reagan the greatest opportunity in memory to transform the federal judiciary.

By the end of his second term Reagan—who in his first four years gave judgeships almost exclusively to white males believed to share his view of the limited role of the courts—is likely to have named a majority of the nation's 744 federal trial and appellate judges, leaving a legacy that will far outlast his presidency.

The way federal judges are picked is a curious mixture of professionalism and patronage, a backstage contest in which outside forces can sink a qualified nominee almost without warning.

In one recent case, Republican senators and conservative activists helped torpedo the nomination of Andrew L. Frey to the D.C. Court of Appeals, because of his membership in pro-abortion and gun-control organizations. In another, some conservatives and business groups are determined to block a district judgeship for Central Intelligence Agency general counsel Stanley Sporkin, who was nominated at the behest of his boss, CIA Director William J. Casey.

It is a process in which 55 Republican senators have almost as much sway as the White House. In ideological terms, conservative senators generally are in tune with the administration. "I want to appoint someone who is at least as concerned about victims' rights as criminals' rights," said Sen. Phil Gramm (R-Tex.).

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